

TITLE 329 SOLID WASTE MANAGEMENT BOARD

PROPOSED RULE AS PRELIMINARILY ADOPTED

LSA Document #01-289

DIGEST

Amends 329 IAC 3.1-1-7 to achieve consistency with federal hazardous waste management regulations by incorporating by reference changes to the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 270, published in the Federal Register from July 10, 2000, through May 16, 2001. Amends 329 IAC 3.1-7-2 to be consistent with IC 13-22-4-3.1 by removing a provision that requires generators to enter waste handling codes on the Uniform Hazardous Waste Manifest. Amends 329 IAC 3.1-9-2 and 329 IAC 3.1-10-2 to be consistent with Public Law 143-2000 by removing provisions that require permitted treatment, storage, and disposal facilities to send copies of hazardous waste manifests to IDEM. Repeals 329 IAC 3.1-4-9.1 and 329 IAC 3.1-4-17.1. Effective 30 days after filing with the secretary of state.

HISTORY

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-8, Draft Rule, and Notice of First Public Hearing: September 1, 2001, Indiana Register (24 IR 4266).

Date of First Hearing: October 16, 2001.

Proposed Rule and Notice of Second Public Hearing: December 1, 2001, Indiana Register (25 IR 842).

329 IAC 3.1-1-7

329 IAC 3.1-4-9.1

329 IAC 3.1-4-17.1

329 IAC 3.1-7-2

329 IAC 3.1-9-2

329 IAC 3.1-10-2

SECTION 1. 329 IAC 3.1-1-7, AS AMENDED AT 24 IR 2431, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-1-7 Incorporation by reference

Authority: IC 13-19-3-1; IC 13-22-4

Affected: IC 13-14-8; 40 CFR 260.11

Sec. 7. (a) When incorporated by reference in this article, references to 40 CFR 260 through 40 CFR 270 and 40 CFR 273 shall mean the version of that publication revised as of ~~July 1, 1999~~ **July 1, 2001**. When used in 40 CFR 260 through 40 CFR 270 and 40 CFR 273, as incorporated in this article, references to federally incorporated publications shall mean that version of the publication as specified at 40 CFR 260.11. The following publications are also incorporated by reference:

- (1) 40 CFR 146 (1995).
- (2) 40 CFR 60, Appendix A (1995).
- (3) ~~Amendments to 40 CFR 260, 40 CFR 261, 40 CFR 264, 40 CFR 265, 40 CFR 268, 40 CFR 270, and 40 CFR 273 published in the Federal Register on July 6, 1999, at 64 FR 36487 through 64 FR 36490.~~
- (4) ~~Amendments to 40 CFR 260, 40 CFR 261, 40 CFR 264, 40 CFR 265, 40 CFR 266, 40 CFR 270, and 40 CFR 271 published in the Federal Register on September 30, 1999, at 64 FR 53070 through 64 FR 53077.~~
- (5) ~~Amendments to 40 CFR 261, 40 CFR 262, and 40 CFR 268 published in the Federal Register on October 20, 1999, at 64 FR 56470 through 64 FR 56472.~~
- (6) ~~Amendments to 40 CFR 261 and 40 CFR 266 published in the Federal Register on November 19, 2000, at 64 FR 63212 through 64 FR 63213.~~
- (7) ~~Amendments to 40 CFR 262 published in the Federal Register on March 8, 2000, at 65 FR 12397 through 12398.~~
- (8) ~~Amendments to 40 CFR 261 and 40 CFR 268 published in the Federal Register on March 17, 2000, at 65 FR 14474 through 14475.~~
- (9) ~~Amendments to 40 CFR 270 published in the Federal Register on May 15, 2000, at 65 FR 30913.~~
- (10) ~~Amendments to 40 CFR 261 and 40 CFR 268 published in the Federal Register on June 8, 2000, at 65 FR 36366 through 36367.~~

(b) Federal regulations that have been incorporated by reference do not include any later amendments than those specified in the incorporation citation in subsection (a). Sales of the Code of Federal Regulations are handled by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The telephone number for the Government Printing Office is (202) 512-1800. The incorporated materials are available for public review at the offices of the department of environmental management.

(c) Where exceptions to incorporated federal regulations are necessary, these exceptions will be noted in the text of the rule. In addition, all references to administrative stays are deleted.

(d) Cross-references within federal regulations that have been incorporated by reference shall mean the cross-referenced provision as incorporated in this rule with any indicated additions and exceptions.

(e) The incorporation of federal regulations as state rules does not negate the requirement to comply with federal provisions which may be effective in Indiana which are not incorporated in this article or are retained as federal authority. (*Solid Waste Management Board; 329 IAC 3.1-1-7; filed Jan 24, 1992, 2:00 p.m.: 15 IR 909; filed Oct 23, 1992, 12:00 p.m.: 16 IR 848; filed May 6, 1994, 5:00 p.m.: 17 IR 2061; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3353; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1111; filed Oct 31, 1997, 8:45 a.m.: 21 IR 947; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2739; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; filed Mar 6, 2000, 8:02 a.m.: 23 IR 1637; readopted filed Jan 10,*

2001, 3:25 p.m.: 24 IR 1535; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2431)

SECTION 2. 329 IAC 3.1-7-2, AS AMENDED AT 24 IR 2431, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-7-2 Exceptions and additions; generator standards

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2; 40 CFR 262

Sec. 2. Exceptions and additions to federal standards for generators are as follows:

(1) Delete 40 CFR 262.12(a) and substitute “A generator who has not received an EPA identification number may obtain one by applying on forms provided by the commissioner. Upon receipt of the completed forms, an EPA identification number will be assigned.”.

(2) In addition to the requirements of 40 CFR 262, Subpart B and the appendix to 40 CFR 262, the generator shall enter the EPA hazardous waste number ~~and handling code~~ for each waste on the Uniform Hazardous Waste Manifest (**EPA Form 8700-22**) as follows:

(A) ~~The EPA hazardous waste number for each waste must be entered on the manifest as follows:~~

(i) ~~For characteristic hazardous waste, Enter the four (4) digit EPA hazardous waste number from 40 CFR 261, Subpart C, that identifies the waste in item “I” of the manifest form or item “R” of the continuation sheet (EPA Form 8700-22A).~~

(ii) ~~For listed hazardous waste, enter the four (4) digit EPA hazardous waste number from 40 CFR 261, Subpart D, that identifies the waste in item “I” of the manifest form.~~

(iii) ~~Where a hazardous waste contains more than one (1) listed waste, or where more than one (1) hazardous waste characteristic applies to the waste, enter each of the applicable EPA waste numbers that identify the waste. When entering multiple EPA hazardous waste numbers, enter the EPA hazardous waste number that identifies the most distinctive or most hazardous property of the waste in item “I”. Enter the remaining EPA hazardous waste numbers, up to four (4) for each waste, in item “J”.~~

(iv) ~~(B) If a waste has more than four (4) additional multiple EPA hazardous waste numbers associated with it, enter the words “multiple coded” or “multi-coded” instead of the additional codes for that waste apply, enter the hazardous waste numbers as follows:~~

(i) ~~Enter the one (1) EPA hazardous waste number that identifies the most distinctive or most hazardous property of the waste in item “I” of the manifest form or item “R” of the continuation sheet.~~

(ii) ~~The remaining EPA hazardous waste numbers may be entered in item “J” of the manifest form or item “S” of the continuation sheet.~~

(v) ~~(C) For nonhazardous or unregulated waste that may be included in the shipment, enter “NONE” in item “I”.~~

(B) ~~The handling code for each waste must be entered in item “K” of the manifest form as follows:~~

(i) ~~Enter the three (3) character handling code from 40 CFR 264, Appendix I, Table 2 that most closely represents the method used at the facility designated in accordance with 40 CFR 262.20(b) to treat, store, dispose, or recover each hazardous waste identified~~

~~on the manifest.~~

~~(ii) If multiple methods are used, the code that most closely reflects the ultimate disposition of the waste at the facility must be entered.~~

~~(iii) If clarification is necessary, enter this information in item 15 or item 32 on the continuation sheet, EPA Form 8700-22A.~~

(3) Delete 40 CFR 262.41 dealing with biennial reporting and substitute section 14 of this rule.

(4) In 40 CFR 262.42(a)(2), delete “in the Region in which the generator is located”.

(5) Delete 40 CFR 262.43 dealing with additional reporting and substitute section 15 of this rule.

(6) In 40 CFR 262.53 and 40 CFR 262.54, references to the “EPA” are retained. A copy of the notification of intent to export, which must be submitted to the EPA, must also be submitted to the Office of Land Quality, Indiana Department of Environmental Management, P.O. Box 7035, Indianapolis, Indiana 46207-7035.

(7) Exception reports required from primary exporters pursuant to 40 CFR 262.55 must be filed with the Regional Administrator of the EPA and the commissioner.

(8) Delete 40 CFR 262.56 dealing with annual reports for exports and substitute section 16 of this rule.

(9) In 40 CFR 262.57(b), the reference to the “administrator” is retained. The commissioner may also request extensions of record retention times for hazardous waste export records.

(Solid Waste Management Board; 329 IAC 3.1-7-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 925; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1098; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2432)

SECTION 3. 329 IAC 3.1-9-2, AS AMENDED AT 24 IR 2433, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-9-2 Exceptions and additions; final permit standards

Authority: IC 13-14-8; IC 13-22-4

Affected: IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 264

Sec. 2. Exceptions and additions to federal final permit standards are as follows:

(1) Delete 40 CFR 264.1(a) dealing with scope of the permit program and substitute the following: The purpose of this rule is to establish minimum standards which define the acceptable management of hazardous waste at final state permitted facilities.

(2) In 40 CFR 264.4 dealing with imminent hazard action, delete “7003 of RCRA” and insert “IC 13-30-3 and IC 13-14-10”.

(3) Reports to the state required at 40 CFR 264.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(4) The written spill report required by 40 CFR 264.56(j) must also include information deemed necessary by the commissioner or the commissioner’s authorized agent to carry out the purpose

and intent of 329 IAC 3.1-10-2.

~~(5) In addition to the requirements at 40 CFR 264.71 dealing with use of the manifest system, the owner or operator, or the owner's or operator's agent, must send one (1) copy of each manifest received with a hazardous waste shipment to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015 within five (5) working days after receiving the manifest.~~

~~(6)~~(5) In 40 CFR 264.75 dealing with the biennial report, delete "EPA form 8700-13B" and insert "forms provided by the commissioner".

~~(7)~~(6) In 40 CFR 264.76 dealing with unmanifested waste reports, delete "The unmanifested waste report must be submitted on EPA form 8700-13B".

~~(8)~~(7) In 40 CFR 264.77 regarding additional reports, insert after the first sentence in (c), "Ground water data for laboratory analytical results and field parameters must be submitted as follows:

(A) Two (2) paper copies on the most current form prescribed by the ~~department~~ **commissioner**.

(B) In addition to the paper copies required in **clause** (A), an electronic report in a format prescribed by the ~~department~~ **commissioner**.

(d) The commissioner may request other information, as required by Subparts F, K through N, and AA through CC of this part, be submitted in an electronic format as prescribed by the commissioner."

~~(9)~~(8) Delete 40 CFR 264, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-15.

~~(10)~~(9) Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J are under section 3 of this rule.

~~(11)~~(10) In 40 CFR 264.221(e)(2)(i)(C), delete "permits under RCRA Section 3005(c)" and insert "with final state permits".

~~(12)~~(11) Delete 40 CFR 264.301(l).

~~(13)~~(12) Delete 40 CFR 264, Appendix VI.

~~(14)~~(13) In 40 CFR 264.316(b), delete "(49 CFR Parts 178 and 179)" and substitute "(49 CFR Part 178)".

~~(15)~~(14) In 40 CFR 264.316(f), delete "fiber drums" and substitute "nonmetal containers".

(Solid Waste Management Board; 329 IAC 3.1-9-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3356; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2433)

SECTION 4. 329 IAC 3.1-10-2, AS AMENDED AT 24 IR 2434, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-10-2 Exceptions and additions; interim status standards

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 4-21.5; IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 265

Sec. 2. Exceptions and additions to federal interim status standards are as follows:

(1) In 40 CFR 265.1(a) dealing with scope of the permit, delete “national” and insert “state”.
(2) In 40 CFR 265.1(b), delete “section 3005 of RCRA” and insert “329 IAC 3.1-13” in both places where it occurs.

(3) Delete 40 CFR 265.1(c)(4).

(4) In 40 CFR 265.4 dealing with imminent hazard action, delete “7003 of RCRA” and insert “IC 13-30-3 and IC 13-14-10”.

(5) Reports to the state required at 40 CFR 265.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(6) The written spill report required by 40 CFR 265.56(j) must also include information deemed necessary by the commissioner or the commissioner’s authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.

~~(7) In addition to the requirements at 40 CFR 265.71 dealing with use of the manifest system, the owner or operator, or the owner’s or operator’s agent, must send one (1) copy of each manifest received with a hazardous waste shipment to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015 within five (5) working days after receiving the manifest.~~

~~(8)~~(7) In 40 CFR 265.75 dealing with the biennial report, delete “EPA form 8700-13B” and insert “form provided by the commissioner”.

~~(9)~~(8) In 40 CFR 265.76 dealing with unmanifested waste reports, delete “The unmanifested waste report must be submitted on EPA form 8700-13B”.

~~(10)~~(9) In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (c), “Ground water data for laboratory analytical results and field parameters must be submitted as follows:

(A) Two (2) paper copies on the most current form prescribed by the department.

(B) In addition to the paper copies required in (A), an electronic report in a format prescribed by the department.”.

~~(11)~~(10) In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (d), “The commissioner may request other information as required by Subparts AA through CC of this part be submitted in an electronic format as prescribed by the commissioner.”.

~~(12)~~(11) In 40 CFR 265.90 dealing with ground water monitoring requirements, delete all references to effective date.

~~(13)~~(12) Delete 40 CFR 265.112(d)(3)(ii) and substitute: “Issuance of a judicial decree or final order under section 3008 of RCRA, judiciary decree under IC 13-30-3, or final administrative order under IC 4-21.5 to cease receiving hazardous waste or close”.

(13) Delete 40 CFR 265.118(e)(2) and substitute the language in subdivision (11).

(14) Delete 40 CFR 265, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-14.

(15) In 40 CFR 265.191(a), the January 12, 1988, deadline date for integrity assessments shall only apply to existing interim status or permitted tank systems that are underground and cannot be entered for inspection. Integrity assessments shall be completed on all remaining tank systems by December 20, 1989.

(16) In 40 CFR 265.191(c), delete “July 14, 1986” and insert “June 20, 1988”.

(17) In 40 CFR 265.193(a), delete all references to deadline dates for secondary containment for existing systems and substitute the dates specified in 329 IAC 3.1-9-3(c)(1) through 329 IAC 3.1-9-3(c)(8).

(18) In 40 CFR 265.301(d)(2)(i)(B) dealing with the definition of the term “underground source of drinking water”, delete “144.3 of this chapter” and insert “40 CFR 270.2”.

(19) In 40 CFR 265.301(d)(2)(i)(C), delete “RCRA Section 3005(c)” and insert “329 IAC 3.1-13”.

(20) In 40 CFR 265.314(g)(2) dealing with the definition of the term “underground source of drinking water”, delete “144.3 of this chapter” and insert “40 CFR 270.2”.

(21) In 40 CFR 265.316(b), delete “(49 CFR Parts 178 and 179)” and substitute “(49 CFR Part 178)”.

~~(21)~~(22) In 40 CFR 265.316(f), delete “fiber drums” and substitute “nonmetal containers”.

~~(22)~~(23) Delete 40 CFR 265.430(b) and substitute the following: The requirements of this subpart apply to owners and operators of wells used to dispose of hazardous waste which are classified as Class I and Class IV in section 3 of this rule.

(Solid Waste Management Board; 329 IAC 3.1-10-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 937; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3357; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1113; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2742; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617 ; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2434)

SECTION 5. THE FOLLOWING ARE REPEALED: 329 IAC 3.1-4-9.1; 329 IAC 3.1-4-17.1.